

## REMARKS

### Claim Summary

Claims 1-17 and 19-27 are pending. Claim 18 is cancelled and claims 1-16 and 21-27 are withdrawn. Claim 17 is currently amended. Claim 28 is new.

### Claim Rejections under 35 USC 102

Claims 17-20 stand rejected under 35 USC 102(e) as being allegedly anticipated by Solem et al. (US 2003/0135267).

In the Advisory Action mailed 10/21/2008, the Examiner stated that Applicants' remarks made with respect to the amendment to claim 17 were not persuasive for the reason set forth in the final rejection mailed on 4/21/2008. While Applicants do not agree with or acquiesce to the Examiner's reason for rejection, Applicants are herewith filing a Request for Continued Examination and are amending claim 17.

Claim 17 is currently amended to recite, in part, applying a proximally directed force on the distal anchor, wherein applying the proximally directed force on the distal anchor applies a shaping force from the focal deflector against the lumen wall to modify the shape of the target tissue; and expanding the proximal anchor to anchor the proximal anchor in the lumen, wherein applying the proximally directed force on the distal anchor is initiated before the proximal anchor is expanded.

Exemplary support for the amendment to claim 17 can be found in, at least, paragraph [0028], lines 10-14; paragraph [0034], lines 8-12; and paragraph [0045], lines 9-10 (e.g., “anchoring a proximal anchor *before* ceasing the proximally directed force”; “anchoring a proximal anchor...to maintain...the reshaping of the tissue”). Additionally, the instant application states in paragraph [0032] that further details of the delivery and deployment of the proximal and distal anchors can be found in U.S. Patent Application 10/429,172, filed May 2, 2003. As made clear in paragraph [0049] of the ‘172 Application, a distally directed force is a force that “pushes” and a “proximally” directed force is a force that pulls (*see*, for example, lines 19-22, 24-28, and 41-43). Additionally, Applicants make clear that the connector extends *proximally* from the distal anchor (*see* paragraph [0028], line 12).

In the Final Office Action of 4/21/2008, the Examiner stated that Solem discloses “self expand stents 22 and 23 and the memory metal thread 20 is *pushed out* of the introduction sheath

thereby the self-expand stents 22 and 23 expand and contact the inner wall of the coronary sinus 24 (paragraph [0146]), thus, Solem discloses the step of applying *a proximal directed* force on the device and step of expanding the proximal and distal anchor.” (4/21/2008 Office Action, pg. 3; emphasis added).

The Examiner is therefore relying on *pushing* the device in Solem to meet the claim limitation of applying a *proximally* directed force. This is simply incorrect. Any pushing forces disclosed in Solem describe a *distally* directed force, as applied to the claims in the instant application. Applicants request the Examiner to reconsider the position taken on this claim limitation or to better explain where Solem describes a proximally directed force as recited in currently amended claim 17.

Claim 17 requires “applying a proximally directed force on the distal anchor, wherein applying the proximally directed force on the distal anchor applies a shaping force from the focal deflector against the lumen wall to modify the shape of the target tissue”, as well as “expanding the proximal anchor to anchor the proximal anchor in the lumen, wherein applying the proximally directed force on the distal anchor is initiated before the proximal anchor is expanded.”

In Solem, both stents are released and expanded *before* any forces are applied to apply a shaping force from a focal deflector against the lumen wall to modify the shape of the target tissue (see paragraph [0146], lines 12-16 and paragraph [0147], lines 6-22). In fact, Solem expressly states that the stents are “fixed into the wall of the coronary sinus,” and *then* “the device is transformed to its activated shorter state” (paragraph [0147], lines 11-17).

Claim 17, however, requires that applying the proximally directed force on the distal anchor is initiated *before* the proximal anchor is expanded. Solem clearly does not disclose this step. The device in the embodiment in Solem is simply not deployed in this manner.

As Solem does not disclose each and every limitation in claim 17, Solem does not anticipate claim 17. Claim 18 is canceled and thus that rejection is moot. Claims 19 and 20 depend from claim 17 and are patentable over Solem for at least the reasons set forth above.

### **Double Patenting Rejection**

Claim 17 stands rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claim 15 of U.S. Patent No. 6,908,478 (“478”).

Claim 17 is currently amended and thus the double patenting rejection to claim 17 is moot.

**New Claim**

New claim 28 depends from currently amended 17 and requires that expanding the proximal anchor occurs while applying the proximally directed force. Exemplary support for new claim 28 can be found in, at least, original claim 18. Claim 28 depends from claim 17 and is therefore patentable over Solem for at least the same reasons as claim 17. Additionally, Solem does not disclose expanding the proximal anchor while applying a *proximally* directed force. As discussed above, Solem first expands both stents and *then* shortens the length of the device.

**CONCLUSION**

Applicants request reconsideration and allowance of all claims pending in this application. If a telephone conference would expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Respectfully submitted,

  
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Thomas Zlogar, Reg. No. 55,760

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By:

SHAY GLENN LLP  
2755 Campus Drive, Suite 210  
San Mateo, CA 94403  
Telephone: 650.212.1700  
Facsimile: 650.212.7562